THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.13331 OF 2004

Dated: 16-12-2005

Between

M/s. Brundavanapura Commission & Wholesale Merchants' Association (Regd. No.8-60), Machilipatnam, rep. by its Secretary, Sri. D. Achyuta Rao and another.

...PETITIONERS

AND

Commissioner & Director of Marketing, Government of A.P., Hyderabad and others.

...RESPONDENTS

ORDER:

Petitioner-association seeks a Writ of Mandamus to declare the action of the respondents in not allowing exemption on the trader bills as illegal and arbitrary.

Learned counsel for the petitioners submits that the Petitioner-association is having 18 members who are all trading in pulses, food grains and other agricultural products in the notified market committees under licence granted by the market committee and the members are paying the market fee levied on the purchases @ 1 % of the value of the goods purchased from the purchasers. The learned counsel further submits that the under Section 12 of the Andhra Pradesh (Agricultural Produce & Lice Stock) Market Act, 1966 (for short 'the Act') the market fee shall be paid by the purchaser of the notified agricultural produce and where the purchaser cannot be identified the fee shall be paid by the seller. The members of the petitioner association have been paying market fee on the basis of trader bills and the same is being accepted at the time of assessment of the accounts. But

the said practice has been discontinued pursuant to the Circular issued by the second respondent dated 09.09.2003 stating that exemptions have to be allowed only on cash receipts, export permits and letters of payment, exemption is not being allowed on trader bills. As per Bye-law 24(3)(c) exemptions have to be allowed only on production of cash receipt issued by the market committee, which receives the market fee or on export permits issued under

Bye-law 24(8) or a letter of payment of market fee to the satisfaction of the market committee. The petitioner-association has made a representation dated 09.06.2004 to the second respondent representing their difficulties.

Learned standing counsel for Agricultural Market Committees appearing for the respondents submits that the trader bill does not indicate any payment of the market fee and the scheme of the Act and the rules made thereof is only to ensure that the market fee is paid at one time along with trader bill unless on the production of cash receipt or the export permit or the letter of payment of market fee.

As per Bye-law 24(3)(c) the traders are not entitled for exemption on the notified agricultural produce. The Joint Director of Marketing vide his letter dated 15.07.2004 informed the petitioner-association that exemptions on trader bills will not be allowed as per the Act, rules and Bye-Laws of the market committees and further informed that he visited the Agricultural Committee, Machilipatnam on 14.07.2004 and verified some assessment files pertaining to the year 2000-2001 in which notices were issued by the Secretary to the concerned traders for submission of proof for exemptions on trader bills. Since no proof was furnished by the traders giving particulars of payment of market fee, the exemptions on trader bills were not granted.

Learned counsel for the petitioners submits that the petitioner-association may be permitted to make a further representation before the second respondent in support of their contention that there will not be any scope for avoiding the market fee by the traders on the production of trader bills.

Having regard to the facts and circumstances of the case,

the petitioner-association is permitted to make a further representation to the second respondent and on such a representation being made; the second respondent may

consider and dispose of the same in accordance with law.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

December 16, 2005

DSK